



SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-651, OMB Control No. 3235-0702]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From:
Securities and Exchange Commission
Office of FOIA Services
100 F Street, NE
Washington, DC 20549-2736

Extension: Rule 18a-3

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (“PRA”) (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission (“Commission”) is soliciting comments on the existing collection of information provided for in Rule 18a-3 (17 CFR 240.18a-3), under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) (“Exchange Act”). The Commission plans to submit this existing collection of information to the Office of Management and Budget (“OMB”) for extension and approval.¹

Rule 18a-3 establishes minimum margin requirements for nonbank security-based swap dealers (“SBSDs”) and nonbank major security-based swap participants (“MSBSPs”) for non-cleared security-based swaps. Under paragraph (e) of Rule 18a-3 nonbank SBSDs are required to monitor the risk of each account that holds non-cleared security based swaps for a counterparty and to establish, maintain, and document procedures and guidelines for monitoring the risk of accounts as part of its risk management control system required under Exchange Act Rule 15c3-4. In addition, paragraph (d)(2) of Rule 18a-3 provides that a nonbank SBSD seeking approval

¹ This OMB Control Number previously included the collections of information in Rule 18-10 as well as the ones in Rule 18a-3. The Commission subsequently requested a separate OMB Control Number for the collections of information in Rule 18a-10. OMB approved that request on February 9, 2022, and the collections of information for Rule 18a-10 are now in OMB Control Number 3235-0785. As a result, the Commission is now changing the burdens in this OMB Control Number 3235-0702 to remove the ones previously included for Rule 18a-10. The Collections of information in Rule 18a-10 were included in OMB Control Number 3235-0702 because Rule 18a-10 was not proposed, but was adopted concurrently with 18a-3 as a result of comments received on the proposal for Rule 18a-3. The Commission later amended Rule 18a-10 and revised the collections of information in Rule 18a-10 and, at that time, requested a separate OMB Control Number. *See* PRA ICR Documents for 3235-0785 on ([reginfo.gov](https://www.reginfo.gov)).

to use a model to calculate initial margin will be subject to an application process consistent with Exchange Act Rule 15c3-1e and paragraph (d) of Exchange Act Rule 18a-1, as applicable, governing the use of internal models to compute net capital.²

The total annual hour burden associated with Rule 18a-3 is approximately 2,243 hours calculated as follows:

The Commission staff estimates that there are 7 nonbank SBSDs that are subject to Rule 18a-3. The staff further estimates that each would spend an average of approximately 210 hours establishing and documenting their Rule 18a-3 counterparty risk monitoring procedures, for a one-time industry-wide hour burden of approximately 1,470 recordkeeping hours or 490 hours per year when annualized over three years.³ In addition, the staff estimates that each nonbank SBSD would spend an average of approximately 60 hours per year reviewing risks associated with its counterparties, for an annual industry-wide burden of approximately 420 recordkeeping hours.⁴ Taken together, the annual industry-wide hour burden is approximately 910 hours.⁵

The Commission estimates it will take a nonbank SBSD approximately 50 hours to prepare and submit an application to the Commission to seek authorization to use an internal model to calculate initial margin. The staff estimates that five non-bank SBSDs have sought Commission approval to use an internal model to calculate initial margin, resulting in a total industry-wide one-time hour burden of approximately 250 hours or approximately 83 hours per year when annualized over three years.⁶ The Commission also estimates that each nonbank SBSD will spend approximately 250 hours per year reviewing, updating, and back testing their

² While Rule 18a-3 contains requirements that apply to both nonbank SBSDs and MSBSPs, the particular requirements that constitute a collection of information relate only to nonbank SBSDs.

³ 7 nonbank SBSDs x 210 hours = 1,470 hours. These amounts are annualized over three years resulting in 490 (210 hours/3 years) hours per nonbank SBSD per year and an industry wide annual burden of 490 recordkeeping hours.

⁴ 7 nonbank SBSDs x 60 hours = 420 hours.

⁵ 490 hours + 420 hours = 910 hours.

⁶ 5 nonbank SBSDs x 50 hours = 250 hours. These amounts are annualized over three years resulting in 83.33 (250 hours/3 years) hours per nonbank SBSD per year and an industry wide annual burden of 83.33 recordkeeping hours, rounded down to 83 hours.

initial margin model, resulting in a total industry-wide annual hour burden of approximately 1,250 recordkeeping hours.⁷ Taken together, the Commission estimates an annual industry-wide hour burden of approximately 1,333 hours.⁸

The total annual hour burden associated with Rule 18a-3 is thus approximately 2,243 hours (910 hours + 1,333 hours).

The total annual cost burden associated with Rule 18a-3 is approximately \$3,333 calculated as follows:

The 7 respondents subject to the collection of information may incur start-up costs in order to comply with this collection of information. These costs may vary depending on the size and complexity of the nonbank SBSB. In addition, the start-up costs may be less for the 2 nonbank SBSB respondents also registered as broker-dealers because these firms may already be subject to similar requirements with respect to other margin rules. For the remaining 5 nonbank SBSBs, because these written procedures may be novel undertakings for these firms, the Commission staff assumes these nonbank SBSBs will have their written risk analysis methodology reviewed by outside counsel. Therefore, the staff estimates that these 5 nonbank SBSBs will engage an outside counsel to review their written risk analysis methodology, at a rate of approximately \$400 per hour for 5 hours (i.e., \$2,000 in legal costs). This will result in a one-time industry-wide external recordkeeping cost of approximately \$10,000, or approximately \$3,333 per year⁹ annualized over 3 years.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the

⁷ 5 nonbank SBSBs x 250 hours = 1,250 hours.

⁸ (250 hours / 3 years) + 1,250 hours = 1,333.33 hours, rounded down to 1,333 hours.

⁹ 5 nonbank SBSBs x \$400/hour x 5 hours = \$10,000. This amount annualized is \$3,333.33 per nonbank SBSB, rounded down to \$3,333.

burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION OF THIS NOTICE IN THE *FEDERAL REGISTER*].

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street, NE, Washington, DC 20549, or send an e-mail to: PRA_Mailbox@sec.gov.

Dated: May 9, 2022,

J. Matthew DeLesDernier,
Assistant Secretary.

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